

<p>E4HLMUS5 Morris - cross Page 268</p> <p>1 other tapes and those other tapes also related to things which 2 were further afield, just because they were handed over and it 3 was a small number of tapes, that wouldn't make it sort of 4 earth shatteringly and suddenly more relevant. Again, we 5 haven't said it's not relevant. We haven't said it's not 6 probative. The issue is whether or not its limited probative 7 value in the context of what we've been talking about in terms 8 of the activity involved in the conspiracy outweighs the 9 prejudice.</p> <p>10 MR. CRONAN: I think the clear inference here is that 11 the reason the defendant gave Mr. Ujaama these tapes knowing 12 that Mr. Ujaama was from the United States and coming back to 13 the United States and particularly to this mosque in Seattle 14 was so the tapes would be heard by other men, so these tapes 15 would have an impact on the other men in the mosque. The men 16 in the mosque, the same group of men in the mosque that the 17 defendant would later send two of his followers from London to 18 work with to establish a jihad training camp. I don't think 19 it's far afield at all. The purpose of these tapes was to 20 motivate and inspire and indoctrinate men in the United States 21 and the impact it did in fact have.</p> <p>22 THE COURT: I think in terms of proper purpose, you 23 may be able to come to proper purpose, but we have to get to 24 relevance before that and then we have to get to the 403 25 analysis after that.</p>	<p>E4HLMUS5 Morris - cross Page 270</p> <p>1 talked about fighting the kafir, the passion you should feel 2 when you're fighting the kafir, you'll want to -- posts like 3 you'll want to fight them so bad, you'll want to throw down 4 your gun and bite them rather than use your gun.</p> <p>5 THE COURT: That is, by the way, that is along the 6 lines of the other statements we've already talked about. 7 Those portions are going to be fine.</p> <p>8 MR. CRONAN: Great. And, your Honor, the last part, 9 not talking about martyrdom operations or suicide operations, 10 but the quote, the blood of the martyr is holier than the pen 11 of the scholar. With respect to that quote, I want to make 12 sure I understand the Court's position.</p> <p>13 THE COURT: That quote in that manner is not different 14 from some of the other types of things that are in some of the 15 other taped statements. So the rationale that the Court 16 allowed and would allow those statements in is subsumed within 17 the Court's ruling of yesterday's date or the day before, 18 whenever I issued it.</p> <p>19 MR. CRONAN: And just to make sure the witness doesn't 20 go anywhere he shouldn't, may I have a little leeway when we 21 get to point to lead him to avoid any answer that would be 22 impermissible?</p> <p>23 THE COURT: Lead him where it's absolutely necessary, 24 but don't use it as carte blanche to lead away.</p> <p>25 MR. CRONAN: Absolutely.</p>
<p>E4HLMUS5 Morris - cross Page 269</p> <p>1 So I'm going to say this is just convincing me more 2 I'm going to stay with my prior ruling at this point in time. 3 Let me tell you some additional reasoning which is along the 4 lines of what I've already said which is that the Bly, Oregon 5 related activity relates to setting up and establishing a jihad 6 training camp and the comments have to do with fighting, 7 fighting, fighting, not so much with, although there are these 8 statements that are not connected to particular aspects of Bly 9 but that we've talked about that have to do with suicide 10 bombing. And so the suicide bombing doesn't seem to be sort of 11 core.</p> <p>12 And in addition to that, Mr. Abbasi was not sent to 13 undertake a suicide mission. So nobody is debating whether or 14 not the defendant made these statements. Nobody is debating 15 that the defendant may have in fact believed in exactly what he 16 said. That would be an inference for the jury to draw if it 17 were put in front of them. But at this point in time I really 18 do want to stay away from the recitations of the suicide 19 bombing. I just think it opens up a can of worms that is just 20 unnecessary to go into.</p> <p>21 MR. CRONAN: And, your Honor, just so I can be clear 22 as to what will be permissible from the witness, I expect 23 taking out what your Honor just excluded he would testify that 24 on these tapes the defendant spread the message that you should 25 kill the kafir, the nonbelievers, wherever you can find them,</p>	<p>E4HLMUS5 Morris - cross Page 271</p> <p>1 THE COURT: Let's take a brief break. 2 (Recess)</p> <p>3 THE COURT: Joe will get himself positioned to bring 4 out the jury, but I wanted to address Mr. Dratel. 5 Mr. Schneider. Yes, you.</p> <p>6 MR. DRATEL: We're separated now.</p> <p>7 THE COURT: The use of 302s. And so I'll just give 8 you a couple case cites. U.S. v. Almonte case, 956 F.2d 27, 29 9 (1992).</p> <p>10 MR. SCHNEIDER: What was that page?</p> <p>11 THE COURT: At page 29. And then the Amato case. 12 That's actually an Eastern District, but it's got some language 13 that cites Almonte case for similar proposition, 2006 WL 14 1891113. It's supportive of the proposition that maybe is not 15 really an issue but that you can't get into evidence that which 16 is not a verbatim transcript in that 302s are not. And I 17 extrapolate from that that you cannot publish to the jury 18 either through slapping something on the screen -- we would 19 never allow that. So making it the equivalent of that through 20 using, as you may not have realized you did, and I quote or 21 quote.</p> <p>22 MR. SCHNEIDER: I won't use the words quote.</p> <p>23 THE COURT: And so when you're quoting, it's 24 essentially walking into that.</p> <p>25 MR. SCHNEIDER: Fair enough.</p>